

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460**

May 5, 1994

Randall F. Andrews, President  
Industrial and Agricultural Chemicals, Inc.  
Route 2, Box 521-C  
Red Springs, NC 28377

Dear Mr. Andrews:

Thank you for your letter of April 15 to Julie Lyddon of my staff in which you requested confirmation of the acceptability of importing into the U.S. spent nickel-containing catalysts for nickel recovery and stainless steel scrap for use in the manufacture of stainless steel.

Assuming they do not exhibit a characteristic of hazardous waste at 40 CFR Part 261 Subpart C, the nickel-containing catalysts and stainless scrap would not be considered hazardous and could therefore be imported. I would note that under 40 CFR 262.11, it is the generator's (and/or the importer's) responsibility to make this determination.

As we stated in our previous letter, you should be aware that a number of countries have ratified the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (we attached a list to our previous letter) . In order for Basel Parties to export to non-Parties (the U.S. is not a Party to Basel) , there must be a bilateral agreement in place which is consistent with the requirements of the Convention. The U.S. is currently Party to three such agreements: a bilateral with Canada for recycling and disposal, a multilateral with the member countries of the Organization for Economic Cooperation and Development (OECD), and a bilateral with Mexico, both of which govern transfrontier movements for recycling only. If you plan to import from a Basel Party with which we do not have an agreement, and that country considers the catalysts or the scrap to be subject to Basel, then the country should not allow the wastes to be exported to the U.S.

Finally, you should check with the appropriate regulatory agencies in the state or states in which you operate to determine whether there are additional requirements with which you must comply.

Thank you for your letter and for your interest in the safe and effective management of wastes. If you have further questions, please call Julie Lyddon at (202) 260-7944.

Sincerely,

Michael Petruska, Chief  
Regulatory Development Branch  
Office of Solid Waste

FaxBack # 11836